



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Honeywell, Inc.

File: B-238184

Date: April 30, 1990

Jerry L. Dodd, Esq., for the protester.
Victor M. Riehl, Esq., for Librascope Corporation, an interested party.
Charles J. McManus, Esq., and Jonathan H. Kosarin, Esq., Office of the General Counsel, Department of the Navy, for the agency.
C. Douglas McArthur, Esq., Andrew T. Pogany, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Where agency found that offeror proposed to make a final decision on its technical approach for meeting requirements for full-scale engineering development of prototype 3 or 4 months after award and therefore presented risks of not meeting required schedules and of exceeding its proposed cost, evaluation that considered both technical and cost risks involved with acceptance of offeror's proposal was reasonable and in accordance with solicitation criteria since consideration of risks involved in an offeror's technical approach is inherent in the evaluation of technical proposals.
2. Protest that agency failed to conduct adequate discussions concerning issues revealed at debriefing conference is denied where record shows that issues either had trivial effect on award decision or were in fact raised during discussions but offeror's response did not satisfy agency's concerns.
3. Protest against decision to award to higher cost, higher technically evaluated offeror is denied where the solicitation provided for award to offeror whose proposal was determined to present the greatest value to the government and where the agency made reasonable determination that the technical superiority and lower risk of the awardee's proposal made that proposal the better value.

C-48404/ 41264

DECISION

Honeywell, Inc., protests the award of a contract to Librascope Corporation under request for proposals (RFP) No. N61331-89-R-0021, issued by the Naval Coastal Systems Center, Florida. The protester principally contends that the agency departed from and misapplied the evaluation and award criteria set forth in the solicitation. The protester also questions the adequacy of discussions and the final selection decision. We deny the protest.

I. BACKGROUND

On March 31, 1989, the agency issued the RFP for a cost-plus-fixed-fee contract for full-scale engineering development (design, fabrication, testing, and delivery) of a prototype catapult-launched fuel air explosive land mine countermeasure system (CATFAE), including a data acquisition system, spare parts, software, and training.^{1/} The solicitation included a firm, fixed-price option for low rate initial production, with ancillary spare parts and support services.

The solicitation provided for evaluation of the production option and for award to the offeror whose proposal was determined to present the greatest value to the government, considering technical merit and cost. The agency advised offerors that the major factors in its award decision would be technical, cost, management and manufacturing factors, in that order of importance. Since the agency had earlier initiated advanced development of the item, the RFP specified that offerors use government-furnished drawings and technical documentation for the previously developed "CATFAE Advanced Development Model as the starting design baseline for [their] design analysis efforts." This model employed the 8086/8087 processor and fire control processor card set. However, the RFP also stated that offerors were "not limited to the suggested approaches." The solicitation also provided for consideration of cost realism.

Three offerors submitted initial proposals on June 1, 1989. The agency found all three proposals to be technically

^{1/} The CATFAE consists of fire control, launcher and round subsystems that can be mounted on amphibious assault vehicles; its explosive round neutralizes antitank and antipersonnel mines. The agency is procuring the round subsystem under a separate contract.

acceptable and within the competitive range. After a period of discussions, the agency requested best and final offers (BAFO) by October 30.

As a result of the agency's evaluation of BAFOs, the protester's proposed price, adjusted for cost realism, was the lowest submitted, but its technical proposal was not rated as high in technical merit as Librascope's proposal.^{2/} Specifically, the protester's proposal indicated that Honeywell would use the 8086/8087 processor and would conduct reverse engineering on the 8086/8087 fire control processor card set used in the advanced development model which did not have a technical data package. The agency understood the protester's proposal to provide for a decision by Honeywell at the completion of this process of building and testing the card set, 3 or 4 months after award, whether to use the advance development model processor (with that card set) or to pursue an alternate approach. In view of the agency's concerns over the capabilities of the advance development hardware and the possibility that the protester would have to pursue such an alternate approach, the agency believed that despite several innovative solutions to specific problems, the Honeywell proposal contained an element of risk of failing to meet required schedules and of exceeding its proposed cost for the basic contract effort. In short, the evaluators found that the protester's dependence upon the processor and fire control processor card from the advanced development model presented a severe schedule risk in view of the limited capacity of the processor and the lack of a technical data package for the card set.

In contrast, the agency considered that Librascope's plans for testing at the component and subsystem level prior to critical design review and its proposal for close coordination with the round contractor, allowing it to monitor the launch tube design, greatly eased burdens of contract administration and significantly reduced schedule risks. The awardee also proposed use of a more powerful processor, with 10 times the processing speed of that proposed by the protester (the 8086/8087 processor). The agency therefore found that Librascope had submitted a proposal that held little risk of not achieving delivery within schedule or of

^{2/} The protester's final price, adjusted for cost realism, was \$32,616,490 with a technical score of 53 points. Librascope's price was \$36,121,456 with a technical score of 60 points. The protester's total greatest value score (GVS) was 93 points; Librascope's was 96 points.

failing to comply with requirements. Chiefly because of Librascope's better defined, lower risk technical approach and correspondingly more realistic estimate of cost and scheduling, the agency found that despite the protester's lower cost, the Librascope proposal, which had received the highest GVS score, offered a better value to the government. Accordingly, the agency awarded a contract to Librascope on December 21, and this protest followed.

II. EVALUATION OF HONEYWELL'S PROPOSAL

A. The 8086/8087 Processor and Card Set

The protester contends that the agency misled offerors by "recommending" in the RFP the use of the CATFAE advanced development baseline, including the 8086/8087 processor and card set for the fire control system. The protester also states that it submitted adequate data to the agency in the form of benchmark tests and analyses to show that the 8086/8087 processor and card set substantially exceeded performance requirements, with little risk of failing to meet schedules. The protester argues that if the agency considered the 8086/8087 processor and card set as marginal in performance, it was obligated to inform offerors.

The contracting agency is primarily responsible for determining which technical proposal (reflecting a specific technical approach) best meets its needs, since it must bear the major burden of any difficulties incurred by reason of a defective evaluation. See Training Corp. of Am., Inc., B-181539, Dec. 13, 1974, 74-2 CPD ¶ 337. Accordingly, procuring officials enjoy a reasonable range of discretion in the evaluation of proposals and in the determination of which offer or proposal is to be accepted for award, and such determinations will not be disturbed unless shown to be unreasonable or in violation of the procurement statutes or regulations. See METIS Corp., 54 Comp. Gen. 612 (1975), 75-1 CPD ¶ 44.

We initially note that our review of the solicitation does not indicate that the agency required or recommended the use of hardware from the advanced development model for the full-scale engineering development effort. While the statement of work did direct offerors to use the drawings and technical information from the advanced development model as a "starting design baseline," we do not interpret the solicitation as indicating that the agency preferred contractors to use the same hardware for full-scale engineering or that it believed all components of the advanced development model to be low risk for full-scale engineering development.

We also find reasonable the agency's finding that use of the 8086/8087 processor and card set presented much greater risk than the awardee's approach. The agency specifically advised the protester during discussions that, in its opinion, the 8086/8087 processor would need considerable development effort to improve to the point to where it could meet the requirements. Further, the agency advised the protester that no technical data package was available for the card set. Despite this advice, the protester did not change its technical approach. Instead, it submitted a proposal that indicated that if awarded a contract, it would conduct an inspection of the 8086/8087 card set used in the advance development model, compare the card set against the available data, and from this prepare specifications and data and produce working equipment. If the processor and card set did not appear feasible for use in full-scale development, Honeywell stated that it would then pursue alternate approaches.

The agency viewed this proposal as presenting risk to program schedules, since it appeared to indicate that the protester might spend 3 to 4 months in determining its technical approach, if, as the agency feared, the 8086/8087 processor could not meet the requirements. In this regard, the RFP as originally issued required a maximum processing time of 130 milliseconds, including 88 milliseconds for fuse ignition, between measurement and ignition; as amended, the RFP allowed 70 milliseconds from measurement until decision (the operator's decision to fire/ignite the fuse). The protester submitted estimates to the agency, based on partial Ada-coding^{3/} of certain applications to support its claim that the 8086/8087 processor could meet the requirements with a 110 percent margin of safety.^{4/} While the agency found the decade-old 8086/8087 processor acceptable, the agency considered the 110 percent margin for error predicted by the protester as less desirable and as having less capacity for growth than the more modern and powerful

^{3/} Ada is a computer language specified for use in Department of Defense data processing applications.

^{4/} Nearly two-thirds of the processing time claimed by the protester for its equipment relied on estimates rather than actual data; while the agency accepted these estimates for evaluation purposes, it retained the conviction that the protester's approach contained risk.

processor proposed by Librascope, using a validated Ada compiler, which had nearly a 2,000 percent safety margin.^{5/}

The record shows that the agency reasonably regarded Honeywell's 110 percent margin for error as undesirable and risky since the full-scale development contract placed many more demands upon the processor than it had encountered in advance development, including recoding the algorithm to Ada, the integration of a global positioning system with the amphibious assault vehicle's navigation system, and a need to predict vehicle position as well as to control off-line ballistics. We therefore find reasonable the agency's determination that Librascope's approach (with its powerful processor) presented a much lower risk solution to the requirements placed on the full-scale development prototype. In this regard, we believe that an agency may reasonably evaluate more highly an approach that offers a greater likelihood of successful performance than a more risky approach. See AT&T Technologies, Inc., B-237069, Jan. 26, 1990, 90-1 CPD ¶ 114.

The protester also argues that any decision by it on the alternate approach could have been made early in the process, after inspection of the advance development cards, or 1 week after award. The short answer is that we find nothing in its proposal indicating this. A technical evaluation must be based on the information submitted with the proposal, and we are unable to find that the agency's doubts in this regard or its interpretation of the protester's proposal was either arbitrary or unreasonable. See Madison Servs. Inc., B-236776, Nov. 17, 1989, 89-2 CPD ¶ 475.6/ We conclude that the technical evaluation in these areas was reasonable and in accordance with the stated evaluation criteria.

5/ We note that Librascope itself stated in its proposal that "[i]t would have been a high risk undertaking to recode the [8086/8087] based CPUs of the [advanced development model] in Ada."

6/ The protester also asserts that the agency misevaluated its proposed approach for determining estimates of the percentage of work completed during various stages of contract performance and improperly downgraded its technical score because Honeywell proposed use of a part-time program manager. We note that the reduction involved for the work estimates was trivial in amount. We also do not believe that it was unreasonable for the agency to give higher technical scores to offerors proposing full-time managers.

B. Risk and Associated Cost Realism

The protester generally objects to the agency's consideration of risk in the evaluation of proposals since risk assessment, according to the protester, was not listed in the RFP as a major evaluation factor.

We note that the RFP specifically directed offerors to address technical risk in their system design approach, including the reasons for such risks. Moreover, the consideration of the risk involved in an offeror's approach is inherent in the evaluation of technical proposals. See, e.g., Lee J. Kriegsfeld, B-222865, Aug. 22, 1986, 86-2 CPD ¶ 214. We therefore do not find it improper that, in evaluating technical proposals, the agency considered the risk that the protester's technical approach represented to meeting program objectives.

The protester also contends that if the agency perceived its proposal as presenting a risk and if the agency therefore adjusted its price proposal upward for cost realism, thereby establishing a realistic price for Honeywell's proposal, the agency should have increased the protester's technical score since the technical proposal would therefore have been more realistic and less risky. Further, the protester argues that if the agency considered technical risk in its cost realism adjustment, it should have based its award decision on the cost realism score alone, not on the combined technical and realistically adjusted cost scores.

We find no merit to this argument. Federal Acquisition Regulation (FAR) § 15.605(d) (FAC 84-16) states that in awards of cost-reimbursement contracts, a cost proposal should not be controlling, since advance estimates of cost may not be a valid indicator of final actual costs. For this reason, an agency may conduct a cost realism analysis, in order to determine what probable and realistic cost it may expect to incur if it accepts a particular proposal; such an analysis insures a common basis for the evaluation of cost proposals. Such an adjustment does not in itself change or improve the contemplated technical approach. See CACI, Inc.-Fed., 64 Comp. Gen. 71 (1984), 84-2 CPD ¶ 542.

In the instant case, there is no basis for concluding that the technical risks inherent in the protester's approach were eliminated or in any way ameliorated by the agency's adjustment of its price to provide what the agency considered a more accurate reflection of the protester's probable incurred cost. We find nothing improper in the agency's adjustment of the protester's proposal for cost realism without increasing Honeywell's technical score, nor

would such an adjustment provide a basis for ignoring the technical score for purposes of the award decision.

III. COMPOSITION OF EVALUATION PANEL

The protester also objects to the absence of some evaluation panel members at meetings where BAFOs were evaluated, and asserts that the transfer of one member of the original panel to another project left the team devoid of expertise on fire control system design.

The source selection plan reviewed by our Office indicates that the panel did not meet as a body, nor did all members of the panel participate in the evaluation of every aspect of each proposal, but that members were assigned portions of the proposals to evaluate in accordance with their expertise. The composition of technical panels is within the discretion of contracting agencies. See Department of Labor Day Care Parents' Assoc., 54 Comp. Gen. 1,035 (1975), 75-1 CPD ¶ 353. The purpose of evaluation panels and their scoring of proposals is to give the contracting officer or source selection official a clear understanding of the relative merit of proposals. It is therefore within the judgment and discretion of the source selection official whether further participation by particular panel members is necessary for him to obtain such an understanding. Accordingly, we have no basis to object to the agency's assignment and reassignment of the evaluation panel members.

IV. ADEQUACY OF DISCUSSIONS

Based on the debriefing received after award, the protester initially contended that the agency failed to conduct adequate discussions with Honeywell in six areas, by not identifying the issues raised in the evaluation of the protester's proposal.

We note that agencies must generally conduct written and oral discussions with all offerors within the competitive range, advising offerors of deficiencies in their proposals and providing them the opportunity to satisfy the government's requirements. tg Bauer Assocs. Inc., B-229831.6, Dec. 2, 1988, 88-2 CPD ¶ 549. The actual content and extent of discussions are matters of technical judgment primarily for determination by the agency involved, and our Office will review the agency's judgments only to determine if they are reasonable. Addsco Indus., Inc., B-233693, Mar. 28, 1989, 89-1 CPD ¶ 317. There is no requirement that agencies conduct all-encompassing discussions. See Information Network Sys., B-208009, Mar. 17, 1983, 83-1 CPD ¶ 272.

The agency advises our Office that of the six specific areas raised by the protester, although all received less than maximum scores, the agency only considered two of them significant--the inadequacy of the protester's safety effort and the use of part-time personnel in the program. The protester, to whom our Office has provided the technical scoring and evaluators' comments, does not dispute this assertion.

Regarding the safety program, evaluators had specific concerns related to the protester's failure to discuss the safety reporting chain and the lack of milestones or schedules for safety. The RFP specifically required that offerors address these areas in their proposals. In this regard, where a solicitation specifically calls for certain information, the agency is not required to remind the offeror to furnish the necessary information with its final proposal. Logistic Sys., Inc., 59 Comp. Gen. 548 (1980), 80-1 CPD ¶ 442. Further, the agency's discussion questions did request the protester to describe its planned tasking under safety, and the BAFO response showed that the protester proposed only half a man-year for safety over the course of the contract, an amount that the agency found inadequate for the work to be done. With regard to the protester's second concern, the record shows that the agency specifically asked the protester to explain its use of a part-time project manager and subcontracts manager in lieu of full-time personnel. We believe therefore that the agency met its obligation of conducting discussions with Honeywell in these areas.

Also concerning the adequacy of discussions, the protester argues that to the extent the awardee's proposal offered a solution not based on the advance development model CATFAE, the RFP established an obligation for the agency to advise other offerors of this approach and to offer them a chance to propose a similar approach.

The RFP's criteria for evaluation of alternate proposals stated that the agency would evaluate such proposals in accordance with the stated evaluated criteria, should such proposals offer technical improvements or modifications to the overall benefit of the government. The RFP stated that as long as it could be done without revealing innovative solutions or techniques or other information entitled to protection from disclosure, the agency would give all offerors an opportunity to revise their proposals should an alternate proposal seem advantageous but involve a substantive or material departure from the RFP's basic requirements. We find no evidence, however, that the awardee's proposal involved such a departure from the RFP

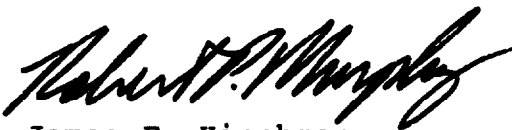
requirements, and in view of the awardee's right to protect its technical approach from disclosure, we see nothing improper in the agency's not revealing it to other offerors and suggesting it to them as a basis for revising their own proposals.

V. SELECTION DECISION

Finally, the protester contends that as the lowest cost offeror, its proposal presented the best value to the government.

In a negotiated procurement, the government is not required to make award to the firm offering the lowest cost unless the RFP specifies that cost will be the determinative factor. Antenna Prods. Corp., B-236933, Jan. 22, 1990, 90-1 CPD ¶ 82. The RFP in this instance clearly stated that technical factors would be of more importance than cost for award. In such cases, agency officials have broad discretion in determining the manner in which they will make use of the technical and cost evaluation results. Institute of Modern Procedures, Inc., B-236694, Jan. 23, 1990, 90-1 CPD ¶ 93. Award to a more highly rated, higher cost offeror is proper where the selection official determines that the cost premium involved is justified, considering the technical superiority of the selected offeror's proposal. Stewart-Warner Elec. Corp., B-235774.3, Dec. 27, 1989, 89-2 CPD ¶ 598. We have reviewed the selection documentation in this case, and in view of our discussions above, we find no basis for finding that the selection official was unreasonable in his determination that the Librascope proposal contained significant advantages, particularly in terms of low schedule and program risks, that justified its slightly higher cost.

The protest is denied.


for James F. Hinchman
General Counsel